BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2018-319-E - ORDER NO. 2019-323

MAY 21, 2019

IN RE:	Application of Duke Energy Carolinas, LLC for Adjustments in Electric Rate Schedules and Tariffs	)))	ORDER

I. INTRODUCTION AND PROCEDURAL HISTORY

This matter comes before the Public Service Commission of South Carolina ("Commission" or "PSC") on the Application of Duke Energy Carolinas, LLC ("DEC" or "Company") filed November 8, 2018, requesting authority to adjust and increase its electric rates, charges, and tariffs. The Application was filed pursuant to S.C. Code Ann. §§ 58-27-820 and 58-27-870 and 10 S.C. Code Ann. Regs. 103-303 and 103-823.

Along with its Application, on November 8, 2018, the Company filed the direct testimony of Steven D. Capps, Senior Vice President of Nuclear Operations for Duke Energy Corporation ("Duke Energy"); James H. Cowling, Director of Outdoor Lighting for Duke Energy Business Services, LLC ("DEBS"); Nils J. Diaz, Ph.D., Managing Director of The ND2 Group, LLC; David L. Doss, Jr., Director of Electric Utilities and Infrastructure Accounting for DEBS; Christopher M. Fallon, Vice President of Duke Energy Renewables and Commercial Portfolio; Kodwo Ghartey-Tagoe, State President – South Carolina for DEC and Duke Energy Progress, LLC ("DEP"); Janice Hager, President of Janice Hager Consulting, LLC; Robert B. Hevert, Partner at ScottMadden, Inc.; Retha Hunsicker, Vice President, Customer Connect-Solutions for DEBS; Jon F. Kerin, Vice President, Coal Combustion Products ("CCP") Operations, Maintenance and Governance for DEBS; Kimberly D. McGee, Rates and Regulatory Strategy Manager for DEC; Joseph A. Miller, Jr., Vice President of Central Services for DEBS; Jay W. Oliver, General Manager, Grid Solutions Engineering and Technology for DEBS; John Panizza, Director, Tax Operations for DEBS; Michael J. Pirro, Director, Southeast Pricing & Regulatory Solutions for DEC, DEP, and Duke Energy Florida, LLC ("DEF"); Donald Schneider, Jr., General Manager, Advanced Metering Infrastructure ("AMI") Program Management for DEBS; Kim H. Smith, Director of Rates and Regulatory for DEC; John L. Sullivan, III, Director, Corporate Finance and Assistant Treasurer for DEBS and Assistant Treasurer of DEC; and Dr. Julius A. Wright, Managing Partner, J.A. Wright & Associates, LLC. Exhibits were included with the direct testimony of witnesses Cowling, Diaz, Doss, Fallon, Hevert, Hunsicker, Kerin, McGee, Oliver, Pirro, Smith, and Wright. The Company filed supplemental direct testimony and exhibits for Company witness Smith on January 18, 2019.

The Company's general electric rates and charges were last approved by the Commission in Docket No. 2013-59-E, Order No. 2013-661, dated September 18, 2013.

In its Application, the Company requested a net revenue increase of approximately $168 million[1] and a return on equity ("ROE") of 10.50 percent.

[1] The net annual revenue increase includes the impact of the return of deferred income taxes through the excess deferred income tax rider ("EDIT Rider") of approximately $63 million, as discussed below.

On November 26, 2018, the Commission Clerk's Office issued the Notice of Filing and Hearing and instructed the Company to publish it in newspapers of general circulation in the areas affected by the Company's Application by December 6, 2018, to notify each affected customer of the hearing by December 6, 2018, and to provide a certification to the Commission by December 27, 2018. On November 27, 2018, the Company filed a letter requesting additional time to complete the notification to customers. On November 28, 2018, the Commission's Docketing Department issued a Revised Notice of Filing and Hearing and instructed the Company to publish it in newspapers of general circulation in the areas affected by the Company's Application by December 6, 2018, and to provide proof of publication by December 27, 2018. The Revised Notice of Filing and Hearing indicated the revenue being requested by the Company, the overall impact to residential customers, and other important details and references necessary to advise the public of the breadth and nature of the Company's request. The Revised Notice of Filing and Hearing also advised those desiring to participate in the proceeding, scheduled to begin March 21, 2019, of the manner and time in which to file appropriate pleadings. The Company also had to notify each affected customer of the hearing by January 11, 2019, and provide a certification to the Commission by February 1, 2019. On December 20, 2018, the Company filed affidavits with the Commission demonstrating that the Revised Notice was duly published in accordance with the Docketing Department's instructions. On January 31, 2019, the Company filed an affidavit certifying that the Revised Notice of Filing and Hearing had been furnished to all applicable customers.

Pursuant to Commission Order No. 2019-119, the Docketing Department scheduled public hearings in the Counties of Anderson, Greenville, and Spartanburg. On February 11, 2019, the Commission's Docketing Department instructed the Company to notify each affected customer of the Public Night Hearings by February 22, 2019. DEC requested that, in lieu of mailing customers Notice of the Public Night Hearings, it be permitted to provide notice of the hearings using the Company's automated calling system to place calls to customers between February 19 and 22, 2019, informing them of the dates, times, and locations of all three hearings. On February 13, 2019, pursuant to Commission Order No. 2019-15-H, the Standing Hearing Officer granted the Company's request for approval of alternative notice of public night hearings.

Walmart Inc. ("Walmart"), represented by Stephanie U. Eaton, Esquire; Carrie Harris Grundmann, Esquire; and Derrick Price Williamson, Esquire, filed a petition to intervene on November 27, 2018. Vote Solar, represented by Bess J. Durant, Esquire and Thadeus B. Culley, Esquire, filed a petition to intervene on December 27, 2018. CMC Recycling, represented by Alexander G. Shissias, Esquire, filed a petition to intervene on December 28, 2018. The South Carolina Solar Business Alliance ("SCSBA") represented by Richard L. Whitt, Esquire, filed a petition to intervene on January 2, 2019. On January 10, 2019, the petition to intervene of Hasala Dharmawardena was filed. The South Carolina Energy Users Committee ("SCEUC") represented by Scott Elliott, Esquire, filed a petition to intervene on January 10, 2019. Cypress Creek Renewables, LLC ("Cypress Creek"), represented by Richard L. Whitt, Esquire, filed a petition to intervene on January 18, 2019. Sierra Club, represented by Robert Guild, Esquire and Bridget Lee, Esquire, filed a petition to intervene on January 28, 2019. The South Carolina State Conference of the National Association for the Advancement of Colored People, South Carolina Coastal Conservation League, and Upstate Forever (collectively, "SC NAACP, et al."), represented by Stinson Woodward Ferguson, Esquire; David L. Neal, Esquire; and Gudrun E. Thompson, Esquire, filed a petition to intervene on February 1, 2019. The Office of Regulatory Staff ("ORS"), automatically a party pursuant to S.C. Code Ann. § 58-4-10(B), was represented by Jeffrey M. Nelson, Esquire; C. Lessie Hammonds, Esquire; and Jenny R. Pittman, Esquire. DEC was represented by Heather Shirley Smith, Esquire; John T. Burnett, Esquire; Camal O. Robinson, Esquire; Frank R. Ellerbe, III, Esquire; Brandon F. Marzo, Esquire; Molly McIntosh Jagannathan, Esquire; and Len S. Anthony, Esquire. Collectively, DEC, Walmart, Vote Solar, CMC Recycling, SCSBA, Hasala Dharmawardena, SCEUC, Cypress Creek, Sierra Club, SC NAACP, et al., and ORS are referred to as the "Parties" or individually as a "Party."

On February 26, 2019, ORS filed the direct testimony of Willie J. Morgan, P.E., Deputy Director of the Utility Rates Department; David C. Parcell, Principal and Senior Economist of Technical Associates, Inc.; Zachary J. Payne, Senior Auditor in the Audit Department; Anthony Sandonato, Regulatory Analyst in the Utility Rates and Services Division; Matthew P. Schellinger II, Regulatory Analyst in the Utility Rates and Services Division; Michael L. Seaman-Huynh, Senior Regulatory Manager in the Utility Rates and Services Division; Gaby Smith, Audit Manager in the Audit Department; and Dan J. Wittliff, Managing Director of Environmental Services for GDS Associates, Inc. Exhibits were included with the direct testimony of witnesses Morgan, Parcell, Seaman-Huynh, Smith, and Wittliff. On February 26, 2019, Sierra Club filed the direct testimony and exhibits of Ezra D. Hausman, Ph.D., an independent consultant doing business as Ezra Hausman Consulting. Walmart filed the direct testimony and exhibits of Gregory W. Tillman, its Senior Manager, Energy and Regulatory Analysis, on February 26, 2019. SCEUC filed the direct testimony and exhibits of Kevin W. O'Donnell, President of Nova Energy Consultants, Inc., on February 26, 2019. Vote Solar filed the direct testimony and exhibits of Justin R. Barnes, Director of Research with EQ Research, LLC, on February 26, 2019. On February 26, 2019, SC NAACP, et al. filed the direct testimony and exhibits of John Howat, Senior Policy Analyst at the National Consumer Law Center, and Jonathan Wallach, Vice President of Resource Insight, Inc. On February 26, 2019, SCSBA filed the direct testimony and exhibits of Hamilton Davis, Director of Regulatory Affairs for Southern Current, LLC, and Christopher Villarreal, President of Plugged In Strategies. Hasala Dharmawardena filed direct testimony on February 26, 2019. On March 6, 2019, ORS filed the supplemental direct testimony and exhibits of witnesses Seaman-Huynh and Smith.

In Order No. 2019-154, issued on February 27, 2019, the Commission granted the Company's request for leave to file the direct testimony of Steve Immel, Vice President of Carolinas Coal Generation for Duke Energy, adopting the pre-filed direct testimony of Joseph A. Miller, Jr.

On March 12, 2019, the Company filed the rebuttal testimony of witnesses Capps, Doss, Ghartey-Tagoe, Hager, Hevert, Hunsicker, Immel, Kerin, Renee Metzler, Oliver, Pirro, Lesley Quick, Smith, Sullivan, and Wright. Exhibits were included with the rebuttal testimony of witnesses Doss, Hevert, Pirro, Smith, and Sullivan.

On March 18, 2019, the Sierra Club filed the surrebuttal testimony of witness Hausman. On March 19, 2019, SC NAACP, et al. filed the surrebuttal testimony of witnesses Howat and Wallach; Vote Solar filed the surrebuttal testimony of witness Barnes; intervenor Mr. Dharmawardena filed surrebuttal testimony; and the ORS filed the surrebuttal testimony of witnesses Steven W. Hamm, Morgan, Parcell, Payne, John C. Ruoff, Seaman-Huynh, Smith, and Wittliff. Exhibits were included with the surrebuttal testimony of Vote Solar witness Barnes; ORS witnesses Smith, Seaman-Huynh, Parcell, Wittliff, Ruoff, and Hamm; and SC NAACP, et. al. witness Howat.

On March 8, 2019, the ORS moved to establish a new and separate hearing docket to review and consider the Company's proposed Grid Improvement Plan ("GIP"). On March 12, 2019, ORS and DEC filed a Stipulation agreeing that the GIP shall be considered in a separate docket independent from the Application. The Company agreed to withdraw from Commission consideration the GIP and the associated cost recovery proposal for costs incurred related to plant placed in service on or after January 1, 2019. Pursuant to the Stipulation, all testimony and evidence relating to the GIP may be moved to the new docket, and all Parties who have expressed any position on the GIP shall automatically be granted intervenor status in the new docket. ORS and the Company further agreed that DEC may defer into a regulatory asset account all GIP-related costs until the underlying costs and proposed recovery are considered in a general rate case proceeding. On March

13, 2019, the Standing Hearing Officer approved the Stipulation pursuant to Order No. 2019-26H.

Public hearings were held on March 12, 2019 in Spartanburg; March 13, 2019 in Anderson; and March 14, 2019 in Greenville. Hundreds of customers attended these hearings and spoke to the Commission about their concerns regarding the Company's proposal. Many customers testified that they were struggling to pay their power bills under the rates currently in place and that they would not be able to afford an increase of the magnitude requested. A number of customers complained specifically of the high compensation of Duke Energy executives.

On March 18, 2019, the Standing Hearing Officer excused from the hearing Company witnesses Cowling, McGee, and Panizza; SCSBA witnesses Davis and Villareal; Walmart witness Tillman; and ORS witnesses Schellinger and Sandonato. Witnesses Davis and Villareal will testify in a subsequent hearing addressing the GIP, and witnesses Tillman, Cowling, McGee, Panizza, Schellinger, and Sandonato's pre-filed verified testimony was entered into the record without the witnesses being required to appear in person at the hearing. On March 20, 2019, the Standing Hearing Officer excused from the hearing Company witness Oliver and Sierra Club witness Hausman. On March 25, 2019, the Commission excused from the hearing SC NAACP, et al. witnesses Howat and Wallach.

The Commission conducted an evidentiary hearing on this matter from March 21, 2019 through March 27, 2019 in the hearing room of the Commission with the Honorable Comer H. Randall presiding.

The following witnesses appeared, gave summaries of their testimonies, and answered questions from counsel and the Commission: DEC witnesses Ghartey-Tagoe, Smith, Fallon, Diaz, Capps, Immel, Doss, Hunsicker, Quick, Schneider, Metzler, Kerin, Wright, Pirro, Hager, Hevert, and Sullivan; ORS witnesses Parcell, Wittliff, Smith, Payne, Hamm, Morgan, Seaman-Huynh, and Ruoff; Vote Solar witness Barnes; and SCEUC witness O'Donnell.

On March 21, 2019, DEC witnesses Ghartey-Tagoe and Smith testified as the Company's first panel of witnesses. Witness Ghartey-Tagoe provided an overview of the reasons for the Company's request for an increase in electric rates and charges. Company witness Smith explained the Company's pro-forma accounting adjustments and revenue requirements for the test period. Company witnesses Fallon and Diaz testified as the Company's second panel regarding the abandoned Lee Nuclear Station project. Witness Fallon provided background on the Lee Nuclear Station Units 1 and 2 ("Lee Nuclear Project") development activities and addressed the Company's position regarding the reasonableness and prudence of the associated costs incurred to obtain the Lee Nuclear Project Combined Operating License ("COL" or "Lee COL"). Witness Diaz testified that the Company's strategy and efforts were reasonable and prudent in securing the COL, as was the Company's decision to extend the units' target operation dates.

The Commission reconvened on March 22, 2019, with testimony from Intervenor Dharmawardena. Mr. Dharmawardena testified regarding the appropriateness of the Company's proposed rate design and cost allocation, as well as the costs being requested for recovery in this proceeding. The Company then presented its third panel of witnesses, Capps and Immel. Witness Capps discussed the Company's nuclear generation fleet, capital and operating and maintenance ("O&M") expense, and operational performance during the test period ending December 31, 2017, as well as the Company's request to begin collecting a reserve for nuclear End-of-Life ("EOL") costs. Witness Immel described the Company's new generation assets and other capital additions since the Company's last general rate case in 2013 and operational performance of DEC's fossil, hydroelectric, and solar portfolio during the test period ending December 31, 2017. Next, DEC presented its fourth panel of witnesses, Hunsicker, Quick, and Schneider. Witness Hunsicker testified regarding the Company's Customer Connect program currently under implementation to replace its current customer information system ("CIS"). Witness Quick's testimony responded to ORS witness Smith's recommendation to not include the Company's growth projections in the Company's proposed adjustment for credit, debit, and Automated Clearing House ("ACH") payment (collectively, "credit card") convenience fees; and SC NAACP, et al. witness Howat's request that the Company publicly file with the Commission monthly billing, payment, arrearage and disconnection data regarding general residential and low-income customer accounts. Witness Schneider testified regarding the Company's AMI deployment and the proposed commercialization of the Company's Prepaid Advantage program. Next, Company witness Doss addressed the financial position and results of DEC's operations for the test period, the Company's request for approval of revised depreciation rates, the status of the nuclear decommissioning trust fund, and the propriety of the Company's Asset Retirement Obligation ("ARO") accounting for coal ash closure costs.

The Commission reconvened on March 25, 2019, with testimony from DEC witness Metzler. Witness Metzler testified regarding the Company's employee incentive compensation program and why the Company believes it is appropriate to recover those costs from customers, as well as the appropriateness of certain expenses being included in rates. ORS witness Parcell testified regarding the appropriate ROE based on his analyses, the Company's capital structure, and his recommended ROE for the Company. DEC presented its fifth panel of witnesses, Wright and Kerin. Witness Wright testified that the Company's practices around coal ash management were reasonable and prudent. Company witness Kerin testified regarding the Company's coal ash expenditures. Next, ORS witness Wittliff testified regarding the Company's coal ash expense request and his recommended disallowances for certain coal ash expenses.

The Commission reconvened on March 26, 2019, with the testimony of Vote Solar witness Barnes. Witness Barnes testified in response to the Company's request to increase its Basic Facilities Charge ("BFC"). Next, SCEUC witness O'Donnell testified that the Commission should disallow a significant portion of the Company's request to recover its coal ash expense. DEC presented the testimony of witness Pirro regarding rate design and the Company's request to increase the BFC. ORS presented its first panel of witnesses, which consisted of witnesses Smith, Payne, and Hamm. ORS witness Smith explained the findings and recommendations as reflected in the ORS Audit Exhibits resulting from ORS' examination of DEC's Application and supporting books and records. Witness Payne offered recommendations for the treatment of the Company's requests for recovery of accounting deferrals. Witness Hamm addressed regulatory policy issues related to certain legal expenses sought by the Company.

The hearing reconvened on March 27, 2019. The Company presented its sixth panel of witnesses, Hevert and Sullivan. Witness Sullivan addressed the Company's financial objectives, capital structure, cost of capital, and cost of debt. Company witness Hevert presented his independent analysis of a fair ROE which would allow DEC to attract capital on reasonable terms and maintain financial strength. Next, Company witness Hager testified regarding the Company's cost of service study and change in methodology to use the Minimum System Method. ORS presented its second panel of witnesses consisting of witnesses Morgan, Seaman-Huynh, and Ruoff. Witness Morgan testified regarding the Company's request to recover costs for the Lee Nuclear Project COL, nuclear EOL reserve, the appropriate amortization period for certain Company deferral requests, and storm cost normalization. Witness Seaman-Huynh addressed the Company's cost of service study, depreciation study, rate design, revenue verification, and revenue requirement distribution. Witness Ruoff addressed the impact to customers if the Commission adopted the Company's positions outlined in its rebuttal testimony and testified that the Company's request for recovery was in excess of reasonable levels necessary to support safe, reliable, and high- quality utility service.

As requested by the Commission, ORS entered one late-filed hearing exhibit provided on March 27, 2019 as composite Hearing Exhibit #49 consisting of the Company's response to ORS Audit Request #55-5 addressing coal ash litigation expenses. DEC filed late-filed Hearing Exhibit #56 which was marked and received in evidence upon receipt on April 2, 2019, and provides additional detail on the Company's coal ash litigation expenses as requested by the Commission. On April 5, 2019, the ORS objected to the Commission's consideration of Hearing Exhibit #56. The Parties filed proposed orders and legal briefs on April 18, 2019.

II. GUIDING LEGAL PRINCIPLES

It bears noting the legal standards applicable to rate applications in South Carolina. The overarching legal standard that must be met by all electric utility rates approved by this Commission is found in S.C. Code Ann. § 58-27-810. That statute provides: "Every rate demanded or received by any electrical utility . . . shall be just and reasonable." The South Carolina Supreme Court has reasoned "the fixing of 'just and reasonable' rates involves the balancing of the investor and the consumer interests. . . . [T]he investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated." *Southern Bell Tel. & Tel. Co. v. Pub. Serv. Comm'n*, 270 S.C. 590, 596-97 (1978)(quoting *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 602-03 (1944)).

These legal standards have been consistently employed by the Commission and the South Carolina courts and reflect the fact that utility customers have a direct interest, not only in low rates today, but also in the financial soundness of the utilities that serve them going forward. This is especially true for electric utility customers because of the universal and immediate importance of the electric utility service to the public and the capital investment that a utility must be able to make month-by-month to provide the quality of service that customers depend on and expect. As the U.S. Supreme Court stated in *Hope*:

> From the investor or company point of view it is important that there be enough revenue not only for operating expenses but also for the capital costs of the business. These include service on the debt and dividends on the stock. By that standard the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.

320 U.S. at 603 (citations omitted). This principle is expanded by *Bluefield Waterworks & Imp. Co. v. Pub. Serv. Comm'n of W. Va.*, 262 U.S. 679 (1923), where the U.S. Supreme Court held:

> A public utility is entitled to such rates as will permit it to earn a return on the value of the property which it employs for the convenience of the public equal to that generally being made at the same time and in the same general part of the country on investments in other business undertakings which are attended by corresponding risks and uncertainties; but it has no constitutional right to profits such as are realized or anticipated in highly profitable enterprises or speculative ventures. The return should be reasonably sufficient to assure confidence in the financial soundness of the utility and should be adequate, under efficient and economical management, to maintain and support its credit and enable it to raise the money necessary for the proper discharge of its public duties.

Bluefield, 262 U.S. at 692-93. Together, the *Hope* and *Bluefield* cases provide "the basic principles of utility rate regulation" in South Carolina. (*See also Southern Bell*, 270 S.C. at 595, 244 S.E.2d at 281; *Patton v. S.C. Pub. Serv. Comm'n*, 280 S.C. 288, 291, 312 S.E.2d 257, 259 (1984)).

Another long-standing regulatory standard applied by this Commission in setting rates is the application of a test year. As routinely recited by this Commission: "The test year is established to provide a basis for making the most accurate forecast of the utility's rate base, revenues, and expenses in the near future when the prescribed rates are in effect. The historical test year may be used as long as adjustments are made for any known and measurable out-of-period changes in expenses, revenues, and investments." See Order No. 2018-445, Docket No. 2016-384-S (2018) (citing *Porter v. S.C. Pub. Serv. Comm'n*, 328 S.C. 222, 493 S.E.2d 92 (1997)) (emphasis added); Order No. 2018-369, Docket No. 2017-28-S (2018); Order No. 2017-80, Docket No. 2016-29-WS (2017). The object of using test year figures is to reflect typical conditions. Where an unusual situation indicates that the test year figures are atypical, the Commission should adjust the test year data. *Parker v. S.C. Pub. Serv. Comm'n*, 280 S.C. 310, 312, 313 S.E.2d 290, 292 (1984). Indeed, the Commission must adjust for known and measurable changes in expenses, revenues, and investments so that the resulting rates will accurately and truly reflect the actual rate base, net operating income, and cost of capital. *Southern Bell*, 270 S.C. at 602–03, 244 S.E.2d at 284–85. Such adjustments are within the discretion of the Commission and, although they must be known and measurable within a degree of reasonable certainty, absolute precision is not required. *Hamm*, 309 S.C. at 291, 422 S.E.2d at 115 (citing *Michaelson v. New England Tel. & Tel. Co.*, 121 R.I. 722, 404 A.2d 799 (1979)); *Porter*, 328 S.C. at 230.

The purpose of this regulatory scheme of using a test year and making adjustments based on atypical conditions is to permit sufficient and accurate cost recovery as the expenses are incurred by the utility in real-time. In other words, the purpose of this ratemaking exercise of using a test year and making appropriate adjustments is to match—as closely as possible—the utility's revenue to the costs it will incur after the rates are implemented. See *Southern Bell*, 270 S.C. at 602, 244 S.E.2d at 284 ("[W]e believe that the Commission should make any adjustments for known and measurable changes in expenses, revenues and investments occurring after the test year, in order that the resulting rates will reflect the actual rate base, net operating income, and cost of capital."). In that regulatory context, there is no need to consider the time value of money or the carrying costs of debt because the utility's revenue matches its expenses as they are incurred.

The Commission's Findings of Facts and Legal Conclusions reflect these standards.

III. AREAS OF DISPUTE

While many aspects of this case are not in dispute, others are contested. Specifically, there are nine accounting and pro forma adjustments proposed by the Company that are not contested and ten additional adjustments recommended by the ORS that the Company has agreed to accept as discussed further. Other accounting adjustments remain contested and addressed herein. In addition, no party in this proceeding opposed the Company's request to revise its depreciation rates; the Company's proposed base fuel and fuel-related factors; the prudency of the Company's investments in nuclear, fossil, hydro, solar, or its transmission and distribution system; the Company's proposed modifications to its lighting tariffs, or the manner in which the Federal Tax Cuts and Jobs Act of 2017 ("Tax Act") should be addressed in this case. The Company's request to commercialize its Prepaid Advantage Pilot program, remove the customer cap and make it available to residential customers across its entire service territory is also uncontested.

The Company initially requested to increase the amount of the BFC to $28 a month but later agreed with the ORS to increase the BFC to $11.96 for residential non-time of use ("TOU"), $13.09 for residential TOU, and $11.70 for SGS customers, and to put the remaining revenue requirement ultimately determined by the Commission in the variable component of the Company's base rates. The parties also agreed to address the Company's proposed GIP in a separate docket. The Company suggested updating the cost of long-term debt in this case and the ORS agreed with the Company's proposal. Initially, the Company proposed to increase its storm cost recovery using a ten-year average but later accepted the ORS suggestion to remove the highest and lowest cost years and use an eight-year average. The Company's application of a historic inflation adjustment to the storm cost calculation remains contested. No party contested the Company's proposal to eliminate credit card convenience fees, but the ORS opposed the Company's adjustment to recover the forecasted uptick in customer usage of credit cards once the program is deployed. The Company's requests to recover deferred costs related to its AMI and Customer Connect deployments are also uncontested except with respect to the ORS' recommendation concerning recovery of a return on the deferred costs.

The other contested areas in this case include: (1) the appropriate ROE that the Company should be allowed in this case; (2) the appropriate recovery of the Company's deferred costs including the appropriate amortization period and whether the Company should be permitted to earn a return on its deferred costs both during the deferral period and the amortization period; (3) whether the Company should be permitted to begin collecting EOL nuclear reserve for materials & supplies and the unused portion of nuclear fuel remaining when the Company's nuclear units are retired; (4) whether it is appropriate to allow a return on the unamortized balance related to the Company's Lee Nuclear Project during the amortization period; (5) the Company's use of the Minimum System Method to allocate distribution costs as customer-related costs in the Company's cost of service studies; (6) whether the Company's proposed adjustment to include Customer Connect projected two-year average O&M expense is sufficiently known and measurable to appropriately include in rates; (7) whether certain costs the ORS has flagged as "non-allowable" (such as expenses related to employee recognition awards, state and local chambers of commerce and other community organization membership dues, the Lineman's Rodeo, costs imposed by other jurisdictions such as motor vehicle registration expenses, and costs that were billed outside the test period but paid during the test period) should be included in rates; (8) whether a portion of the Company's incentive compensation relating to shareholder and earnings metrics should be disallowed; (9) whether the Company should be allowed to include inflationary adjustments in their calculation of certain costs (10) whether the Company should be required to submit monthly billing, collection and disconnect data on residential and low-income customers; (11) whether the Company should be required to perform comprehensive economic analyses before making investments needed to continue to operate its coal plants; (12) treatment of the Company's coal ash expenses including whether costs imposed as a result of the North Carolina Coal Ash Management Act ("CAMA") should be collected from South Carolina customers, whether the Company's ARO accounting for coal ash closure costs is appropriate, and whether ORS' criticism of the Company's response to data requests from the ORS is justified and sufficient enough to overcome the presumption of reasonableness related to the requested recovery of certain legal expenses related to coal ash litigation, including litigation to pursue insurance monies to help offset coal ash compliance costs for customers; (13) whether the Company has submitted sufficient documentation to support recovery of certain rate case expenses; and (14) whether the

Company has provided appropriate notice of the proposed rate increase to meet the due process requirements of S.C. Const., Art. 1, § 22.

IV. FINDINGS OF FACT

Based upon the Application, the testimony, and exhibits received into evidence at the hearing and the entire record of these proceedings, the Commission makes the following findings of fact:

A. Jurisdiction

1. DEC is a limited liability company duly organized and existing under the laws of the State of North Carolina. It is a public utility under the laws of the State of South Carolina and is subject to the jurisdiction of this Commission pursuant to S.C. Code Ann. § 58-3-140(A). The Company is engaged in the business of generating, transmitting, distributing, and selling electric power to the public in western South Carolina and a broad area of central and western North Carolina. DEC is a wholly-owned subsidiary of Duke Energy, both having their offices and principal places of business in Charlotte, North Carolina.

2. The Commission has jurisdiction over the rates and charges, rate schedules, classifications, and practices of public utilities operating in South Carolina, including DEC, as generally provided in S.C. Code Ann. §§ 58-27-10, et seq.

3. DEC is lawfully before the Commission based upon its Application for a general increase in its retail rates pursuant to S.C. Code Ann. §§ 58-27-820, 5827-870, and 26 S.C. Code Ann. Regs. 103-303 and 103-823.

4. The appropriate test period for use in this proceeding is the 12 months ended December 31, 2017, adjusted for certain known changes in revenue, expenses, and rate base.

B. DEC's Request for a Rate Increase

5. DEC, by its Application and initial direct testimony and exhibits, originally sought a base increase of $230,807,000 in annual electric sales revenues from its South Carolina retail electric operations, including a rate of return on common equity of 10.5% and a capital structure consisting of 47% debt and 53% equity. The Company subsequently revised its requested base revenue requirement to $225,214,000. DEC also proposed an excess deferred income tax ("EDIT") rider to reflect the reduction in tax rates enacted in the Tax Cuts and Jobs Act of 2017. DEC's proposed EDIT Rider in the amount of ($61,888,000) would reduce year 1 revenue to a net increase of $163,326,000.

6. Following its review of all the evidence presented in this docket by the various parties, the Commission has adopted certain accounting adjustments resulting in a net revenue increase of $106,931,000 preceding the application of the EDIT Rider calculated by DEC and accepted by ORS.

C. Return on Equity, Cost of Debt, and Capital Structure

7. Based on the record in this proceeding, the Commission finds 9.50% to be a reasonable Return on Equity ("ROE") for DEC for purposes of this general rate case.

8. Based on the record in this proceeding, the Commission finds 53% equity and 47% debt to be a reasonable capital structure for DEC for purposes of this general rate case.

9. Based on the record in this proceeding, the Commission finds 4.53% to be a reasonable cost of debt for purposes of this general rate case.

10. The Commission finds that DEC, through sound management, shall have the opportunity to earn an overall rate of return of 7.16%. The overall rate of return is derived from applying an embedded cost of debt of 4.53% and an ROE of 9.50% to a capital structure consisting of 47% long-term debt and 53% equity. The Commission finds and concludes that evidence in this case supports DEC's overall rate of return, cost of debt, ROE, and capital structure.

Table 1 below indicates the capital structure of the Company, the cost of debt, the cost of equity as approved in this Order, and the resulting rate of return on rate base:

Table 1: Summary of Overall Rate of Return

Type of Capital	Ratios	Cost Rate	Weighted Cost Rate
Long-Term Debt	47.00%	4.53%	2.13%
Common Equity	53.00%	9.50%	5.04%
Total	100.00%		7.16%

D. Base Facilities Charges

11. The Company initially requested increases of 268% in the Base Facility Charges ("BFCs"), but after public hearings in the Upstate, withdrew its initial request and agreed to BFCs of $11.96 for residential non-TOU customers, $13.09 for residential TOU customers, and $11.70 for Small General Service ("SGS") customers. DEC's request for the higher BFCs was based upon its position that the Commission should permit the utility

to utilize the Minimum System Method ("MSM") of determining the cost of service. The ORS and the intervenors opposed the adoption of the MSM. Additionally, this Commission has previously declined to approve the use of the MSM in setting the BFC.[2]

In this case, the Commission need not reach the issue of whether to approve the use of the MSM because no party objected to the specific BFC increases eventually proposed by ORS and accepted by the Company. This Commission need not rule on uncontested issues, and therefore will not here address the appropriateness or inappropriateness of the Minimum System Method in future cases. Based upon the evidence presented, and in light of the lack of objection by any party to the agreed-upon BFCs, the Commission finds them to be just and reasonable.

E. Agreed Upon Accounting Adjustments

12. The Company and ORS have agreed to the following accounting adjustments, which were proposed by DEC in its initial filing:

- Adjustment #6 – Adjust for costs recovered through non-fuel riders
- Adjustment #8 – Annualize depreciation on year end plant balances
- Adjustment #9 – Annualize property taxes on year end plant balances
- Adjustment #10 – Adjust for new depreciation rates
- Adjustment #16 – Adjust for coal inventory
- Adjustment #17 – Adjust for approved regulatory assets and liabilities
- Adjustment #24 – Levelize nuclear refueling outage costs
- Adjustment #26 – Adjust aviation expenses

[2] *In re Duke Power Co.*, Docket No. 91-216-E, Order No. 91-1022, at p. 7 (1991).

- Adjustment #34 – Adjust for Federal tax rate change

13. The Company and ORS have also agreed to the following accounting adjustments recommended by ORS:

- Adjustment #1 – Annualize Retail revenues for current rates
- Adjustment #2 – Update fuel costs to approved rate and other fuel related adjustments
- Adjustment #3 – Adjust other revenue
- Adjustment #4 – Adjust the amount of CWIP in rate base
- Adjustment #5 – Eliminate unbilled revenues
- Adjustment #11 – Adjust for post year additions to plant in service
- Adjustment #12 – Reflect 2017 Lee Combined Cycle Facility ("Lee CC") addition to plant in service
- Adjustment #23 – Update benefit costs
- Adjustment #31 -- Adjust vegetation management expenses
- Adjustment #32 – Synchronize interest expense with end of period rate base

The adjustments listed above have been agreed to by DEC and the ORS and are not contested by any of the parties. The Commission finds, based upon its review of all the evidence, that these adjustments are just and reasonable to all parties and consistent with the evidence presented.

F. Accounting Adjustments in Dispute

14. As to Adjustment #7, DEC proposes a three-year amortization period for the deferred cost balance related to the Carolinas West Control Center. ORS recommends

that this deferred cost balance be amortized over 30 years, consistent with the service life of the asset. The Commission accepts this recommendation. The Company may earn a Weighted Average Cost of Capital ("WACC") return on the deferred capital costs, but not on deferred depreciation, O&M, or property tax expense.

15. As to Adjustment #13, DEC proposes a three-year amortization period for the deferred cost balance related to the W.S. Lee Combined Cycle Facility. ORS recommends that this deferred cost balance be amortized over 39 years, consistent with the service life of the asset. The Commission accepts this recommendation. The Company may earn a Weighted Average Cost of Capital ("WACC") return on the deferred capital costs, but not on deferred depreciation, O&M, or property tax expense.

16. As to Adjustment #14, the ORS has recommended that DEC be allowed recovery of $124,601,000 of pre-construction costs for the Lee Nuclear Project, but that the Company not be allowed a return on the unamortized balance of this investment. The Commission agrees that the Company's shareholders should not be permitted to earn a return on the canceled project at the expense of DEC's customers, and it therefore adopts ORS's position.

17. As to Adjustment #15, DEC seeks to recover $6.975 million every year from its customers to be placed into a reserve fund to be used to defray future nuclear EOL costs. The Commission finds that these expenses are not known and measurable, and they should therefore be disallowed.

18. As to Adjustment #18, DEC seeks recovery of Coal Combustion Residuals ("CCR") expenses incurred from January 2015 through December 2018 related to

compliance with federal and state regulatory requirements. ORS does not oppose DEC's request to recover expenses incurred in complying with the federal CCR rule, but advocates disallowance of $469,894,472 in additional expenses incurred by the Company in complying with North Carolina's Coal Ash Management Act ("CAMA"), which imposed upon DEC stricter regulation and costlier compliance expenses in connection with management of coal ash basins located in North Carolina.

DEC seeks substantial recovery in this proceeding resulting from North Carolina's CAMA and other state actions. ORS witness Wittliff and SCEUC witness O'Donnell testified that North Carolina's CAMA was brought about by the spill at Dan River. Additionally, this Commission has received evidence that confirms that North Carolina's CAMA is much more stringent and results in costs in excess of those that would be incurred absent CAMA. It is also clear that while the North Carolina General Assembly has enacted statutes requiring actions that result in increased costs, the South Carolina General Assembly has not done so.

The North Carolina General Assembly has the authority to create the laws that govern the business conducted in North Carolina. To subject South Carolina DEC customers to North Carolina laws which are neither necessary for the provision of power nor which confer benefits to South Carolina ratepayers would be inappropriate.The Commission cannot abdicate the sovereign nature of the South Carolina General Assembly, from which this Commission derives its authority. As a result, this Commission will not permit DEC to pass on increased expenses incurred as a result of North Carolina's CAMA.

The Commission finds it just and reasonable to disallow the recovery of additional expenses attributable to CAMA from South Carolina ratepayers.

19. As to Adjustment #19, DEC proposes a three-year amortization period for the deferred cost balance related to the South Carolina Advanced Metering Infrastructure. ORS recommends that this deferred cost balance be amortized over 15 years, consistent with the service life of the asset. The Commission accepts ORS's recommendation. The Company may earn a Weighted Average Cost of Capital ("WACC") return on the deferred capital costs, but not on deferred depreciation, O&M, or property tax expense.

20. As to Adjustments #20 , DEC seeks to normalize storm restoration costs to the average level of costs the Company experienced over the past ten years. ORS recommended eliminating the expenses in the highest and lowest years to use an eight-year average expense level, and the Company does not oppose this recommendation. The Commission finds that it is appropriate to use the eight-year average method to normalize storm restoration costs and approves this method.

21. In Adjustment #21, DEC seeks to add an inflation adjustment to non-labor O&M expense. ORS opposes this adjustment. This position is based on the longstanding accounting principle that any adjustments to Test Year expenses must be both known and measurable. *See*, Tr. p. 1602-14, ll. 4-9. *Heater of Seabrook, Inc., v. Public Serv. Comm'n of S.C.*, 324 S.C. 56, 60, 478 S.E. 2d 826, 828 (1996). Because the Commission likewise finds prospective adjustments for inflation to be generalized and speculative, and not known and measurable, it declines to grant them in normalizing for non-labor O&M expenses.

22. As to Adjustment #22, in which the Company proposed adjustment of wages, salaries, and related benefit costs to reflect current annual levels, ORS recommended removal of $15,428,000, consisting of 50% of short-term incentive compensation and long-term incentive compensation for all qualifying employees. The Commission finds ORS's proposed disallowance to be inappropriate. The incentive compensation which the ORS seeks to disallow is a prudently incurred cost of service which comprises only a portion of overall employee compensation expense. The Commission finds that the disallowance recommended by ORS is unwarranted, and therefore adopts the Company's adjustment.

23. Adjustment #25 relates to rate case expenses. ORS proposes that the Commission disallow $2,000,000 in estimated rate case expenses projected to be incurred through May 2019, as well as $512,313 in rate case expenses for which DEP failed to provide adequate supporting documentation. The Commission has reviewed the evidence presented and agrees to these disallowances. After applying these adjustments, the Company may recover approximately $1,339,000 in rate case expenses, amortized over a five-year period, resulting in an annual amortization expense of $268,000. The Company may continue to defer rate case expenses incurred after December 31, 2018, and will be given the opportunity to propose including these expenses in a future proceeding.

24. Adjustment #28 relates to the Company's request that it be allowed to recover approximately $3,162,000 for costs incurred from accepting credit card payments without surcharging customers for using credit. DEC's proposed adjustment includes approximately $645,000 in projected expenses resulting from customer growth and

expected increases in the number of customers using credit cards as their mode of payment. ORS advocates disallowance of the portion of the adjustment resulting from these growth projections. The Commission agrees that the portion of the requested expenses attributable to growth projections is not known and measurable and disallows that portion, resulting in the Company being permitted to recover approximately $2,517,000 for its credit card program.

25 In Adjustment #29, the Company agreed to remove 50% of the compensation of the four Duke Energy executives with the highest level of compensation allocated to Duke Energy Carolinas in the test period. DEC's proposed adjustment would amount to a reduction in O&M expense by ($948,000) and income taxes by $237,000. The Commission accepts the Company's proposed adjustment as to the compensation of all these executives except for Duke Energy CEO Lynn Good, whose compensation the Commission finds to be excessive because Ms. Good was the highest paid CEO for an investor-owned utility in the nation for test year 2017 with a salary of $21.4 million. The Commission therefore imposes an additional 25% disallowance of Ms. Good's compensation allocated to South Carolina. Adding this adjustment of ($137,000) to the agreed reductions above yields a total adjustment to O&M expense of ($1,085,000) and income taxes by $271,000.

26. As to Adjustment #30, the Company seeks recovery of its deferred costs and approval to include approximately $4,700,000 annually for ongoing O&M expenses, including carrying costs at its weighted average cost of capital, associated with replacing its Customer Information System with a new system called Customer Connect. The

Company is proposing to recover the deferred costs over a three-year period. ORS initially recommended disallowance of $4,025,000, since the Company recorded $640,000 in O&M expense relating to Customer Connect during the test year and deemed the balance of the request to be not known and measurable. On surrebuttal, ORS subsequently proposed an O&M adjustment of $2,549,000, resulting in a total allowance of $3,189,000 consisting of the Company's actual deferred O&M expenditures as of December 31, 2018. The Commission finds the total O&M adjustment of $2,549,000, with the resulting deferral balance to be amortized over a three- year period, to be just and reasonable. The Commission, though, rejects the Company's request to include the deferred balance in Rate Base as these costs consist entirely of deferred O&M expenses.

27. Adjustment #33 adjusts DEC's rate base to include the additional working capital required as a result of the additional O&M expenses proposed in this proceeding. In rebuttal testimony, Company witness Smith explained that while the amounts calculated by DEC, $320,870,000, and the ORS, $80,166,000, for this adjustment are different based on other areas of disagreement, the Company and the ORS agree on the concept of and the method used to calculate this adjustment. (Tr. 4, p. 659-19 – 659-20.) In her surrebuttal testimony, ORS witness Smith agreed with this characterization, stating that the ORS and the Company amounts differ only due to the underlying adjustments of ORS and the Company and the recommended ROE. (Tr. p. 1607-13.) Therefore, Working Capital is adjusted $83,971,000 as a result of the underlying adjustments approved by the Commission in this order.

28. In Adjustment #35, DEC seeks recovery of deferred costs incurred in connection with grid reliability, resiliency, and modernization work. The Company has placed in service investments of approximately $44 million on a South Carolina retail basis. The Company requests recovery of the deferred costs over a two-year period, including a net of tax return on the unamortized balance of the regulatory asset through inclusion in rate base for a revenue requirement impact of approximately $3 million for this adjustment. ORS recommends a deferral balance of $5,904,000 with the deferred cost of capital portion of the deferral balance included in rate base, excluding the deferred depreciation, O&M, and property tax expense portion of the deferral balance. This treatment is consistent with ORS's overall recommendation for deferral accounting treatment in this case. The ORS also recommends recovery over a five-year amortization period. Based upon the evidence, the Commission adopts the adjustment recommended by ORS.

29. As to Adjustment #36, ORS seeks disallowance of certain expenses incurred for sponsorships, lobbying, advertising, the Lineman's Rodeo, employee service awards, spot awards, and safety awards, dues to Chambers of Commerce, club dues, and other costs ORS deems unrelated to the delivery of electric service to customers. In response, DEC agreed, and the Commission concurs, to an adjustment of ($227,033) and income taxes of ($57,000) to remove lobbying costs and image building advertising expenses. In addition, the Commission removes ($575,000) incurred in litigation expenses incurred in defending state enforcement actions relating to coal ash disposal and insurance coverage litigation seeking recovery of losses incurred due to liability for coal ash removal. The Commission finds the other expenses addressed in Adjustment #36 to be recoverable.

30. Adjustment #37 reflects customer growth after accounting and pro forma adjustments. To capture the additional revenues and expenses generated by customers added to the Company's system, an adjustment is included for customer growth. The customer growth factor is calculated by taking the difference between the total number of customers at the end of the Test Year and the average number of customers during the year and dividing the result by the average number of customers during the Test Year. The Company and ORS agree to a customer growth factor of 0.9008%.

31. Adjustment #38 adjusts for revenue, taxes, and customer growth. The Company proposes to adjust electric operating revenue by $225,214,000, general taxes by $998,000, income taxes by $55,942,000, and customer growth by $1,516,000 for the proposed revenue increase. (Hearing Ex. 10 (Smith Rebuttal Ex. 1, p. 1).) ORS proposes to adjust electric operating revenue by $82,357,000, general taxes by $365,000, income taxes by $20,457,000, and customer growth by $554,000 for the ORS proposed revenue increase and to achieve an ROE of 9.3% as recommended by ORS witness Parcell. (Hearing Exhibit No. 44 (Surrebuttal Audit Exhibit GS-1)). In her rebuttal testimony, Company witness Smith explained that while the amounts calculated by DEC and the ORS for this adjustment are different based on other areas of disagreement, the Company and the ORS agree on the concept of and the method used to calculate this adjustment. (Tr. 4, p. 659-24.) In her surrebuttal testimony, ORS witness Smith agreed with this characterization, stating that the ORS and Company amounts differ only due to the underlying adjustments of ORS and the Company and the recommended ROE. (Tr. p. 1607- 13.)

The adjustments approved by the Commission in this order adjust electric operating revenue by $106,931,000, general taxes by $474,000, income taxes by $26,561,000, and customer growth by $720,000 to give the Company the opportunity to achieve an ROE of 9.5%, as proposed within the recommended range of ORS witness Parcell. This represents approximately a 53% reduction from the Company's requested revenue increase.

G. Fuel Costs

32. The Company proposes to use the following base fuel factors by customer class (excluding gross receipts tax and regulatory fees):

- Residential 2.1094 cents per kWh
- General Service/Lighting 2.1004 cents per kWh
- Industrial 2.0721 cents per kWh

The Commission finds, based upon the evidence, that the proposed base fuel and fuel-related factors, as updated by the Company in its supplemental filing, are just and reasonable.

H. Cost of Service

33. The Company has proposed the Summer Coincident Peak ("SCP") methodology for cost allocation between jurisdictions and among customer classes in this case. The Commission finds and concludes that for purposes of this proceeding, the Company may continue to use the SCP methodology for allocation between jurisdictions and among customer classes and that the Company's cost of service methodology is just and reasonable.

I. Lighting

34. DEC proposes modifications of certain outdoor lighting fees and schedules to help modernize the Company's outdoor lighting products and services to reflect the continued adoption of light emitting diode ("LED") technology. These modifications, as set forth in the testimony of Company witnesses Cowling and Pirro, are just and reasonable.

J. Prepaid Advantage Program

35. The Company seeks approval to commercialize its Prepaid Advantage program by removing it from pilot status, by removing the customer cap and making the program available to customers across its entire jurisdiction. The proposed modifications to commercialize the Prepaid Advantage program, as set forth in the testimony of Company witnesses Schneider and Pirro, are just and reasonable.

K. Customer Data

36. South Carolina NAACP et al., recommended that DEC should be required to provide detailed monthly residential and low-income customer usage data by zip code in a format accessible to the public. The Company is in the process of implementing its new Customer Connect program, which may facilitate the compilation of the requested data. While the Commission believes that making the requested data publicly available may be beneficial, it declines to order the Company to do so at this time.

L. Depreciation

37. The depreciation study, as filed by the Company as Doss Exhibit 2 (part of composite Hearing Exhibit 22), and the depreciation rates proposed by DEC in this case, as filed by the Company as Doss Exhibit 3 (part of composite Hearing Exhibit 22), are just

and reasonable and should be approved in this case. The Company seeks to adopt these new depreciation rates effective August 1, 2018, and defer into a regulatory asset account the incremental depreciation expense resulting from the new depreciation rates. The Company proposes to amortize the regulatory asset over a three-year period with inclusion of the unamortized balance of the regulatory asset in rate base. The Commission finds and concludes that the new depreciation rates approved by the Commission shall be effective as of August 1, 2018, and the Company's deferral request relating to incremental depreciation expense is just and reasonable.

M. EDIT Rider

38. The Company has proposed to implement flow back of excess deferred income taxes to customers through an EDIT Rider, as follows:

a. For Federal EDIT protected under Internal Revenue Service ("IRS") normalization rules, in accordance with those rules;

b. For Federal EDIT not protected by normalization rules, but related to property, plant and equipment, over a 20-year period;

c. For Federal EDIT not protected by normalization rules, but not related to property, plant and equipment, over a five-year period;

d. For deferred revenue, net of deferred balances related to the Distributed Energy Resource Program ("DERP"), over a five-year period; and

e. For North Carolina EDIT, over a five-year period.

The Company's proposed EDIT Rider is just and reasonable and will result in rates that are just and reasonable and should be implemented. The appropriate annual revenue requirement for the EDIT Rider is a decrement of approximately ($61,800,000) in year 1.

The ORS will review the changing ARAM rate related to protected EDIT to ensure that it is correctly calculated during the annual change in the EDIT rider.

N. Revenue Requirement

39. Based upon the foregoing, the Commission finds the just and reasonable gross revenue requirement to be approximately $106,931,000. The net revenue requirement following the decrement for the EDIT rider is approximately $45,131,000 in Year 1.

V. EVIDENCE AND LEGAL ANALYSIS AS TO DISPUTED ISSUES

A. Accounting Adjustment #7

The Company has deferred into a regulatory asset account costs incurred from the time its Carolinas West Primary Distribution Control Center ("CWPDCC") was placed into service until the time the costs are reflected in new rates from this proceeding. DEC is seeking recovery of deferred costs relating to the asset over a three-year period including a net of tax return on the unamortized balance of the regulatory asset through inclusion in rate base. The CWPDCC was placed in service in September 2017. (Tr. 4, p. 796-17.) Company witness Oliver explained that the CWPDCC is part of an enterprise program where the Company is updating and consolidating multiple regional centers into purpose-built, highly reliable, and hardened facilities and this facility supports increased North American Electric Reliability Corporation reliability standard requirements for Critical Infrastructure Protection and Emergency Operations Preparedness. (Id.)

In Docket No. 2018-207-E, we approved the Company's request to defer into a regulatory asset account, the return and depreciation on the capital costs of the CWPDCC at its WACC. The total projected deferred costs are approximately $5 million and in this case, the Company is requesting to amortize the deferred balance over a three-year period including the balance less one year of amortization in rate base, resulting in an annual revenue requirement of $2 million including net of tax return on the unamortized balance of the regulatory asset through inclusion in rate base. (Id. at 655-15.)

No party contested the prudency of the Company's investment in the CWPDCC. However, ORS witness Payne proposes a deferral balance of $5,042,000, which provides the Company recovery of the same deferred cost of capital and deferred depreciation expenses but does not include a return on those deferred costs. (Tr. p. 1613- 6.) Witness Payne recommends that the deferred cost of capital portion of the deferral balance be included in rate base but to exclude the deferred depreciation expense portion from rate base because he believes this is consistent with regulatory accounting practices for capital-related and operating-related expenses. (Id.) Further, ORS witness Morgan recommends that the Commission not permit the Company to earn a return on the unamortized balance during the amortization period. ORS witness Morgan recommends a 30-year amortization to match the service life of the asset. (Tr. p. 2015-3.)

In his surrebuttal testimony witness Morgan testified that the Company had provided no justification for the amortization period the Company recommends for each deferred cost balance and absent the approval of an accounting order establishing the regulatory asset, the Company would not be able to recover all the costs it incurred because some of those costs were incurred outside the test year period. (Id. at 2017-2.)

Based upon the evidence presented, the Commission finds that ORS's recommended treatment of the CWPDCC is just and reasonable.

B. Accounting Adjustment #13

In Order No. 2018-552 in Docket No. 2018-207-E, the Commission approved the Company's request to defer into a regulatory asset account costs incurred from the time its Lee CC facility was placed into service until the time the costs approved in this proceeding are reflected in new rates. The costs deferred are the return and depreciation on the capital costs, the associated incremental non-fuel O&M expenses, property taxes, and the carrying cost on the deferred costs at the Company's weighted average cost of capital. The total projected costs are approximately $23 million on a South Carolina retail basis. The Company proposes to recover its deferred costs for this adjustment over a three-year amortization period, resulting in an $8 million annual revenue requirement, which includes a net of tax return on the unamortized balance of the regulatory asset through inclusion in rate base.

No party contested the prudency of the Company's investment in the Lee CC facility. However, ORS recommends the deferred cost of capital portion of the deferral balance be included in rate base but not the deferred depreciation, O&M, and property tax expense portion of the deferral balance. (Tr. p. 1613-7 – 1613-8.) ORS further recommends that the deferred capital and operating cost be amortized over the remaining service life of the Lee CC facility, which is 39 years. (Tr. p. 2015-4).

The Commission finds that the ORS's recommended treatment of the Lee CC facility is just and reasonable.

C. Accounting Adjustment #14

In this case, DEC has requested to recover its costs associated with the abandonment of the Lee Nuclear Project as of May 31, 2019. (*Id*. at 655-19.) Total system spending for the Lee Nuclear Project was $559 million, including non-depreciable land costs of $41 million. (Id.) Following transfer of the non-depreciable land costs to Plant Held for Future Use, the total amount of the Lee Nuclear Project development costs for which the Company is requesting recovery from South Carolina retail customers is approximately $125 million. (Id. at 655-19 – 655-20.) The Company requests to amortize this amount over 12 years and to earn a net-of-tax return on the unamortized balance. (Id.)

ORS witness Morgan presented testimony concerning ORS' investigation into DEC's project development costs and request for recovery. (Tr. p. 2015-5 – 2015-8.) ORS reviewed DEC's testimony, previous correspondence and orders related to the Lee Nuclear Project, and documents considered by the NCUC regarding the Lee Nuclear Project. (Id. at 2015-5.) Following its review, ORS concluded that "DEC's decision to incur costs to obtain the Combined Operating License and support preconstruction activities were reasonable – based upon the information available to DEC at that time the costs were incurred." (Id.) ORS' sole exception to the costs presented by DEC was to recommend disallowance of $129,443 (South Carolina retail) for the costs incurred for the design of a Visitors Center at the Lee Nuclear Project site. (Id. at 2015-6.) Witness Morgan testified that these expenditures were not necessary to obtain the Lee COL. (Id.) ORS also recommended that the Commission remove the return on the unamortized balance of the Lee Nuclear Project. (Id. at 2015-6 – 2015-8.) Witness Morgan reasons that this approach will ensure that "the risks of the Lee Nuclear Project be equitably shared between the DEC shareholders and its customers through the disallowance of a return on debt and equity." (Id. at 2015-6.) Furthermore, this approach is consistent with ORS' interpretation of this Commission's precedent and the approach adopted by the NCUC for Lee Nuclear Project costs. (Id. at 2015-6 – 2015-8.) Other than the costs associated with the Visitors Center and his recommendation concerning the return on the unamortized balance, witness Morgan did not recommend any other disallowances for the Lee Nuclear Project. (Id. at 2015-6.) No other party to this proceeding presented testimony in opposition to the Company's recovery of its costs for the Lee Nuclear Project.

In ORS' view, Lee Nuclear Project pre-construction costs are not extraordinary and do not benefit customers. (Id. at 2017-4.) Allowing a return on the unamortized balance would "saddle its customers with all of the nuclear plant's risk." (Id.) This would be consistent with the treatment the Commission afforded to Cherokee Units 2 and 3 in Order No. 1983-92, which ruled on "the exact same set of facts." (Id. at 2017-4 – 2017-5.) The established precedent of this Commission is to permit utilities to recover prudently incurred abandoned plant costs. See Order No 83-92 at 22-23, 46-47. With respect to abandonment costs associated with Cherokee Units 2 and 3 and Perkins Nuclear Station, the Commission allowed the utility to amortize these investments, including AFUDC, over a ten-year period with no return on the unamortized balance. *Id.* Likewise, in this case, the Commission allows the Company to recover the costs at issue but disallows any return on the unamortized balance.

D. Accounting Adjustment #15

The Company proposes to establish a reserve for EOL nuclear materials & supplies costs and unused last core nuclear fuel not already captured by the decommissioning study. (Tr. p. 655-20 – 655-21.) This accrual would capture unique materials and supplies costs and unburned nuclear fuel costs remaining when the reactor(s) shut down. The expense to write off nuclear inventory materials and supplies, which typically have little or no salvage value when decommissioning occurs, represents one example of the type of expense the Company seeks to accrue for in this reserve. (Id.) The Company requests a $5 million annual accrual for EOL nuclear materials and supplies and a $2 million annual accrual for last core fuel. (Id.) The reserves, once created, will be included as an offset to rate base in the cost of service. (Id.)

DEC Witness Smith highlighted that each reserve will create a better matching of costs and benefits for ratemaking purposes. (Id. at 655-20.) For EOL nuclear inventories, the Company will determine annual accrual amounts by dividing the projected inventory balances at the end of each unit's life by the number of years remaining in the unit's life and summing this result for DEC's three nuclear plants. For last core of nuclear fuel, the Company will determine annual accrual amounts by dividing the projected remaining value of the last core of nuclear fuel at the end of each unit's life by the number of years remaining in the unit's life and summing this result for or DEC's three nuclear plants. Witness Smith noted that annual accrual amounts can be reviewed and adjusted, if needed, in each future general rate case before the end of the plant's life. (Id.)

ORS witness Morgan recommended that the Commission reject the Company's request to establish reserves for EOL nuclear costs and last core of nuclear fuel. (Tr. p. 2015-4 – 2015- 5.) Witness Morgan contends that (1) the EOL fuel and parts inventory estimates included in the proposal are not known and measurable and (2) the retirement date for the three nuclear units is uncertain due to the potential for subsequent license renewals.

Importantly, DEC's operating licenses for the Company's nuclear units are currently set to expire between 2033 and 2043. (Tr. p. 2015-4) These dates may have no relationship to the facilities' actual decommissioning.

"When calculating expenses in rate cases, the Commission should use only test year data and known and measurable changes occurring after the test year." *Heater of Seabrook, Inc. v. Pub. Serv. Comm'n of South Carolina*, 324 S.C. 56, 60, 478 S.E.2d 826, 828 (1996). The Commission is persuaded that the EOL expenses for which the Company seeks to establish a reserve fund are not sufficiently known and measurable at this time to warrant the requested funds. The request is therefore denied.

E. <u>Accounting Adjustment #18</u>

The Company is requesting recovery of ash basin closure compliance costs incurred in the period from January 1, 2015 through September 30, 2018, as of the time of filing, and updated through December 31, 2018. On a South Carolina retail jurisdiction basis, these costs amount to $241 million. Witness Smith stated that the Company is seeking recovery of these costs over a five-year period with the unamortized balance of the regulatory asset included in rate base to mitigate the associated customer rate impacts. (Tr.

p. 655-21 – 655-24.) She explained that the Company has isolated costs related to any fines or penalties it was assessed and/or agreed to pay and is not requesting their recovery in this proceeding, nor will it ever seek to recover these costs from customers. She also explained that while the costs to comply with the Coal Combustion Residuals rule ("CCR Rule") and North Carolina's CAMA are largely duplicative, there are a small portion of the costs that the Company has determined are specific to CAMA, unique to North Carolina customers, and appropriate for direct assignment to North Carolina. The Company is likewise not requesting recovery of those costs. (Id. at 655-22.)

The Company expects to continue to invest significant amounts related to coal ash compliance after the December 2018 cut-off in this case. Instead of requesting recovery of an ongoing level of these costs, the Company is requesting that the Commission approve a continuation of the deferral, similar to what was approved in Docket 2016- 196-E, for costs not included in this case. Specifically, the Company proposes deferral of CCR compliance costs related to ash basin closure beginning January 1, 2019, the depreciation and return on CCR compliance investments related to continued plant operations placed in service on or after January 1, 2019, and a return on both deferred balances at the overall rate of return approved in this case. (Id. at 655-23 – 655-24.)

Company witness Kerin provided a detailed discussion of DEC's coal ash management history and practices and the new obligations imposed on the Company by the CCR Rule, South Carolina regulatory requirements and preferences, and CAMA. He asserted that coal waste, including fly ash, bottom ash, boiler slag, and flue gas desulfurization ("FGD") material, are by-products produced from burning coal at coal-fired generation plants, which has allowed the Company to produce reliable and inexpensive electricity for over a century. He stated that environmental regulations related to ash management have evolved significantly over time, affecting how the Company has operated its coal-fired plants in compliance with those obligations. He testified that at each step in the environmental regulatory evolution process, the Company was in line with industry standards and that DEC reasonably and prudently managed coal combustion residuals and its coal ash basins. He explained that since its last rate case, DEC has become subject to both federal and state regulations that require it to take significant action to close its ash basins. (Tr. p. 1232-6 – 1236-9.)

Witness Kerin further provided a detailed history of coal ash regulation, and he testified that since the early 1900s DEC has disposed of ash in compliance with then current regulations and industry practices. Witness Kerin stated that, in many cases, ash basins, of which the Company has 17 in the Carolinas, were actually created or relied upon to effectuate prior environmental regulations. In the mid-1970s, the enactment of the Clean Air Act and its subsequent amendment in the 1990s required electric utilities to capture more ash through the use of electrostatic precipitators ("ESP") or bag houses and FGD blowdown. (Tr. p. 1232-6 – 1232-7.) Witness Kerin further stated that the Clean Water Act of 1972, and the subsequent creation of the National Pollutant Discharge Elimination System ("NPDES") permitting system, made wet ash handling and ash basins the primary lawful and effective way to meet ash needs and environmental requirements from 1974 until 2015. (Tr. p. 1232-7.)

Witness Kerin testified that the federal CCR Rule, which the Environmental Protection Agency ("EPA") proposed in June 2010 and published in final form in April 2015, established national minimum criteria for ash landfills and surface impoundments, which result in different impacts at each unit depending on site-specific factors. He stated that the CCR Rule also contains requirements for how and when ash basins must be closed and that it provides for closure either by cap-in-place or removal of the ash. He noted that as stated in the CCR Rule, the EPA considers coal ash to be a non-hazardous solid waste. (Tr. p. 1232-7; p. 1232-16 – 1232-17.)

Witness Kerin testified further that in 2014, DEC entered into a consent agreement with the South Carolina Department of Health and Environmental Control ("SCDHEC") relating to the closure of ash basins at the Company's W.S. Lee Plant in Anderson County, South Carolina ("W.S. Lee Consent Agreement"). The W.S. Lee Consent Agreement requires DEC to excavate ash from two inactive ash storage areas onsite and dispose the ash in a lined landfill. He testified that other South Carolina utilities are closing their ash basins in a similar fashion. (Tr. p. 1232-7 – 1232-8.)

Witness Kerin noted that all of DEC's ash basins must be closed under the CCR Rule, South Carolina regulatory oversight, and/or CAMA. He explained that the Company has begun the process of developing and submitting closure plans at its ash basins and that ultimately, all closure plans, whether submitted pursuant to the CCR Rule or state requirements, must be approved by SCDHEC or NCDEQ. (Tr. p. 1232-8.) He noted that coal-powered electric generation has ceased at four of the eight coal-fired DEC generating facilities with ash basins, including the Dan River Steam Station ("Dan River"), Buck

Steam Station ("Buck"), Riverbend Steam Station ("Riverbend"), and W.S. Lee Steam Station ("W.S. Lee"). (Tr. p. 1232-11.)

Witness Kerin testified that the environmental compliance obligations—the CCR Rule, South Carolina regulatory oversight, and CAMA—represent new regulatory requirements that have significantly changed the operation and life cycle of the onsite ash basins and landfills. He asserted that there is a great deal of duplication and interaction between federal rule, state law, and agency action and that many of the actions Duke Energy will take will serve multiple compliance purposes.

He stated that many actions and draft rules applicable to many utilities, not just Duke Energy, were already being developed prior to 2014 and that the Company is now in another wave of evolution in environmental regulation pertaining to ash. He said that in response to these new requirements addressing ash disposal activities, the Company is adding dry fly ash, bottom ash, and FGD blowdown handling systems to operating coal-fired plants that are not already so equipped. He also stated that the Company is modifying all active and decommissioned plants to divert storm water and low-volume wastewater away from the basins. He testified that, accordingly, the Company is requesting recovery of the compliance costs related to coal ash pond closures incurred starting January 1, 2015 through December 31, 2018. He testified that these incurred compliance costs are reasonable, prudent, and cost-effective given the individual facts and circumstances at each power plant and ash basin site at issue. (Tr. p. 1232-8 – 1232-9.)

Company witness Wright testified that in August 2014, after the EPA's proposed coal ash regulations were published but prior to their finalization, North Carolina adopted

CAMA. He noted that while the CCR Rule and CAMA are similar in many respects, DEC must ensure that its coal ash disposal methods meet the standards established in both the CCR Rule and CAMA as well as any other state agency requirements. (Id. at 1242-16 – 1242-18.)

Witness Wright testified further that the Company must also follow guidance from SCDHEC with respect to disposal of coal ash. Specifically, the South Carolina legislature passed H.B. 4857 in 2016, which requires utilities to dispose of by-products resulting from the production of electricity in Class 3 landfills except under limited circumstances, and the Company entered into the W. S. Lee Consent Agreement. (Id. at 1242-18 – 1242-19.)

Witness Wright also testified, "There is no doubt that the Dan River spill certainly helped prompt the North Carolina General Assembly to examine the State's and national coal ash disposal policies and regulations. Out of that legislative investigation came North Carolina's Coal Ash Management Act ("CAMA")." (Tr., p. 1242-17) He noted further that the proposed CCR regulation, promulgated four years before the Dan River incident, also strongly encouraged the states to adopt at least the federal minimum criteria in their solid waste management plans. He concluded that the North Carolina General Assembly and/or the NCDEQ would likely have taken steps to adopt coal ash regulations shortly after the CCR Rule was finalized in 2015. He noted that, regardless, the Company must comply with both the federal and state coal ash disposal standards. (Id. at 1242-17 – 1242-18.)

The SCEUC, the Sierra Club, and ORS each offered testimony addressing the Company's request to recover environmental costs relating to coal ash remediation. SCEUC Witness O'Donnell opined that DEC should only recover costs to comply with the

CCR Rule, and not any CAMA-only costs that exceed CCR Rule compliance costs (Tr. p. 1459-35 – 1459-39.) Witness O'Donnell compared the DEC coal ash asset retirement obligation ("ARO") to what he termed similar coal ash AROs of utilities across the United States. He concluded that the Company's ARO coal ash costs are among the highest in the nation and contended that the only discernable difference between the Duke utilities and the other utilities in his comparison was the additional cost imposed by CAMA. He stated that DEC did not provide a similar financial analysis for this case. (Id. at 1459-43 – 1459-50.) He testified that there is no evidence to suggest that Duke Energy's coal ash situation is significantly different from that of utilities across the country or from that of utilities in neighboring states. Accordingly, Witness O'Donnell recommended a 75% disallowance for the Company's coal ash request. (Id. at 1459-50.)

SCEUC Witness O'Donnell also testified that he was concerned with the Company's accounting for coal ash remediation costs, specifically in terms of when the Company began recording AROs for coal ash basin closure costs. (Tr. p. 1459-43.) Witness O'Donnell explained that Statement of Financial Accounting Standards ("SFAS") 143 requires that companies establish the ARO liability "in the period in which the liability was incurred." (Id.) Mr. O'Donnell also testified that prior to the Company being subject to SFAS 143, it also did not include any closure costs for its coal ash ponds in depreciation rates; thus, the issue is: "whether it was prudent for the Company not to have sought recovery of the coal ash costs in prior rate cases." (Id.) Mr. O'Donnell further explains that as early as 1981, the Electric Power Research Institute ("EPRI") began publishing manuals for the industry dealing with existing coal ash storage and disposal facilities. (Id.)

However, even with these publications dating back to 1981, the Company did not establish AROs until the promulgation of CAMA and the final CCR Rule in 2014. Therefore, Witness O'Donnell recommends this Commission disallow $46.7 million for South Carolina. (Id. at 1459-11.)

Sierra Club witness Dr. Ezra Hausman contended that the Commission should require the Company to conduct a comprehensive retirement analysis and that the recovery of any coal ash compliance costs be conditioned upon the filing of this analysis. (Id. at 1522-3.)

ORS contends that costs incurred due to state-specific laws (*i.e.*, CAMA) should not lead to increased costs to customers outside of that jurisdiction. (Tr. p. 1340-29.) ORS Witness Wittliff then calculated a total disallowance of $406,311,822, which he contended reflects costs attributable to CAMA. Witness Wittliff suggested that CAMA-only costs disallowed in this proceeding could be recovered in a later rate case if DEC can show that those costs would have been incurred under the CCR Rule alone. (Tr. p. 1340-40.)

Witness Wittliff testified that the purpose of his testimony was to quantify the additional costs resulting from CAMA compared to what the Company costs would have been if the Company was solely required to comply with the CCR Rule. (Id.)

Witness Wittliff testified that the Company's proposed closure method for Allen, Belews Creek, Cliffside, and Marshall are consistent with the federal CCR Rule and recommended that the Company be able to recover its requested costs for these sites. Additionally, Witness Wittliff recommended that the Company be allowed to recover its costs to excavate and remediate its impoundments at its W.S. Lee Plant in Anderson County, South Carolina. (Tr. p. 1340-38.)

For the Company's remaining sites - Riverbend, Buck, and Dan River - Witness Wittliff concluded that CAMA resulted in three categories of expenditures that were not attributable to the CCR Rule: 1) expenditures for plants not covered at all by the CCR Rule; 2) expenditures for closure and/or excavation options not required under the CCR Rule but required under North Carolina law; and 3) expenditures for actions that would not have been required at this time under the CCR Rule but are subject to accelerated schedules under CAMA. (Tr. p. 1340-30).

Witness Wittliff testified that the Riverbend plant fell into the first category because its inactive basins are not explicitly covered by the CCR Rule. He testified that DEC is excavating ash and closing its basins at Riverbend solely because of CAMA. ORS' total recommended disallowance for Riverbend is $316,680,585, which accounts for all compliance costs incurred to-date. Witness Wittliff goes on to state that should the EPA later decide to regulate the basins at Riverbend, DEC could then seek to recover those costs in rates from South Carolina customers. (Tr. p. 1340-30 – 1340-31.)

Under the second category, ORS recommends a disallowance of $36,544,788 at Buck for ash beneficiation costs, which witness Wittliff testified would not be required under the federal CCR Rule. Witness Wittliff testified that DEC's beneficiation project at Buck falls under the "CAMA-only" category, and that the customers of South Carolina should not have to reimburse the Company for expenses related to that requirement. To calculate the disallowance amount, Mr. Wittliff first concluded that engineering and planning costs should be recoverable because those activities are needed to synchronize work between all the coal ash sites being closed. Spending at Buck increased from $12.9 million between 2015 and 2017 to $72.4 million in 2018, and witness Wittliff testified that this led him to conclude that a significant portion of the 2018 costs were related to beneficiation, not engineering and planning. For that reason, he recommended disallowing the difference between the total 2018 spend ($72,417,654) and the average of the previous three (3) years ($12,895,654) for a total disallowance of $59,522,499. To adjust the disallowance for the requested recovery through September 30, 2018, the $22,977,711 reported by DEC as being spent from October 1, 2018 through December 31, 2018, was subtracted for a net proposed disallowance of $36,544,788. (Tr. p. 1340-33 – 1340-36.)

Regarding the third category, witness Wittliff identified Dan River as a DEC site that has been affected by the accelerated closure timeline imposed by CAMA. He testified that under the CCR Rule, the Company would not have been required to commence closure activities until October 31, 2020, while closure under CAMA is required to be completed by August 1, 2019. Witness Wittliff testified that DEC should be allowed to recover engineering and planning costs that would have been required for compliance with the CCR Rule, and DEC should be allowed to seek recovery after 2020 for prudently incurred construction and transportation expenditures related to CCR compliance. To calculate the disallowance, witness Wittliff testified that he used the same weighted average methodology that he used to calculate the Buck disallowance. He calculated the weighted average of engineering and planning costs as a percentage total of project costs for the four (4) proposed cap-in-place plants (i.e. Allen, Belews Creek, Cliffside, and Marshall) as

19.53% during the period from 2015 through the end of 2018. Applying that percentage to the total project costs, witness Wittliff concluded that recoverable engineering and planning costs are $50,757,430. ORS recommended that the remaining $167,426,449 of the Company's requested costs be disallowed. (Tr. p. 1340-38.)

Witness Wittliff testified that the Dan River ash release was largely responsible for the development of CAMA in its present form, which he said accelerated remediation and closures and narrowed the field of removal and closure options. (Tr. p. 1340-19.) He stated that North Carolina was not considering any similar legislation prior to the Dan River spill. (Tr. p. 1340-19 – 1340-20.) He said that the plea agreements into which the Company has entered demonstrate harm to the environment caused by DEC's criminal negligence. (Tr. p. 1340-16.) Witness Wittliff stated that court cases and plea agreements involving DEC's ash facilities also demonstrate that DEC was criminally and civilly negligent in its operations and maintenance of the impoundments for years prior to the enactment of CAMA and that this confirms that the Company failed to responsibly address and correct these issues adequately and in a less-costly manner than it is currently being required to do. (Tr. p. 1340-15 – 1340-16.) He testified that despite increasing concerns about potential water impacts from CCR impoundments, the Company did not vary from its established practice of building, expanding, and continuing to utilize unlined wet surface impoundments. (Tr. p. 1340-27.)

ORS witness Seaman-Huynh likewise recommended that the Commission disallow recovery of coal ash expenses incurred to comply with North Carolina laws and regulations, like CAMA, that impose requirements above and beyond those in effect in

South Carolina. (Tr. p. 2030-6.) In total, ORS witnesses recommended a disallowance of $469,894,472 for what it described as CAMA-only compliance costs, allocated to South Carolina on a jurisdictional basis. (*Id*.)

ORS witness Wittliff testified that the closure of the Buck site resulted in additional costs of $36,544,788 on a system-wide basis that was solely the result of the beneficiation requirement under CAMA. (Tr. p. 1340-35 – p. 1340-36) He further testified that CAMA accelerated the closure timeline at the Dan River facility which resulted in $116,669,019 of additional costs on a system wide basis that was solely the result of CAMA. (Hrg. Ex. 33 at DJW-8.1.2.) Additionally, he testified that the closure at Riverbend was solely the result of CAMA requirements and that there was no requirement to close the facility under the Federal CCR Rules, this should result in a disallowance of $316,680,655 on a system-wide basis. *Id.*

As explained by ORS witness Seaman-Huynh, DEC utilized a cost causation allocation method on certain costs the Company directly assigned to its North Carolina and South Carolina jurisdictions, respectively. (Tr. p. 2028-5) Cost causation allocation puts the cost responsibility for expenses and rate base items on the customer class that caused the expenses to be incurred. (Tr. p. 2028-3) DEC directly assigned expenses incurred due to South Carolina's Distributed Energy Resource Program ("DERP") Act to South Carolina customers and directly assigned expenses incurred due to the North Carolina Renewable Energy and Energy Efficiency Portfolio Standard and the North Carolina Clean Smokestacks Act to North Carolina customers. (Tr. p. 2028-6– p. 2028-7) ORS witness Seaman-Huynh testified that it is a common practice for utilities operating in multiple jurisdictions to assign the costs related to certain accounts directly to one jurisdiction as these costs are often derived from laws and regulations that are specific to that jurisdiction. (Tr. p. 2028-7)

DEC witness Kerin testified the Company is not seeking recovery of costs incurred to supply clean drinking water to North Carolina residents affected by the Dan River coal ash spill as that expense is "unusual" and "unique." (Tr. p. 1279) ORS contends that CAMA's requirements are also unique – unique to the state of North Carolina, and the burden of its required expenses should not fall on South Carolina customers. ORS recommends this Commission protect South Carolina customers from an increase in rates due to the incremental increases in costs imposed by CAMA above the Federal requirements. ORS maintains that CAMA includes protections above and beyond what is required in the Federal CCR Rule and these protections are only to the benefit of North Carolina residents. On this basis, ORS argues that the CAMA-only portion of coal ash expenses should be disallowed.

The Commission has fully considered all the evidence presented and has concluded that the Company should not be permitted to recover from South Carolina ratepayers the added expenses attributable only to CAMA. Accordingly, the Commission disallows $469,894,472 in CAMA-only compliance costs, allocated to South Carolina on a jurisdictional basis.

F. Accounting Adjustment #19

Adjustment #19 addresses the appropriate amortization period for DEC's South Carolina Advanced Metering Infrastructure ("AMI"). In its Application, the Company requested recovery of its deferred costs,[3] plus a net of tax return on the unamortized balance (through inclusion in rate base) for three years, associated with the completed deployment of AMI across the DE Carolinas system. (Application at 11.)

No party contested the prudency of the Company's investment in AMI. However, ORS recommended the deferred cost of capital portion of the deferral balance be included in rate base but not the deferred depreciation and O&M expense portion of the deferral balance. (Tr. p. 1613-10 – 1613-11.) The ORS also recommends recovery over a 15-year amortization period. The Commission finds that the adjustments and amortization period recommended by ORS is just and reasonable.

G. Accounting Adjustment #20

The Company proposes a proforma adjustment to normalize storm restoration costs to the average level of costs the Company experienced over the past ten years. ORS witness Morgan recommended eliminating the expenses in the highest and lowest years to use an eight-year average expense level. The Company does not oppose this recommendation, and the Commission finds that it is appropriate to use the eight-year average method to normalize storm restoration costs as proposed by witness Morgan.

H. Accounting Adjustment #21

In Accounting Adjustment #21, the Company proposes to adjust non-labor O&M expenses for inflation. As discussed previously, ORS opposes such adjustments because

[3] In Docket No. 2016-240-E, the Company petitioned for approval to defer into a regulatory asset account incremental operating and maintenance expense and depreciation expense incurred once the AMI meters were installed, as well as the associated carrying costs on the investments and deferred costs at its weighted average cost of capital. The Commission approved the Company's petition on August 7, 2018 in Order No. 2018-552 (2018).

they are insufficiently certain to be known and measurable. When calculating expenses in rate cases, Commission should use only test year data and known and measurable changes occurring after the test year. *Heater of Seabrook, Inc. v. Public Service Com'n of South Carolina*, 324 S.C. 56478 S.E.2d 826 (1996), *citing Southern Bell Tel. & Tel. Co. v. South Carolina Pub. Serv. Comm'n*, 270 S.C. 590, 244 S.E.2d 278 (1978). The Commission adopts the position of ORS.

I. Accounting Adjustment #22

In Accounting Adjustment #22, the Company adjusted wages and salaries, and related employee benefit costs, to reflect annual levels of costs as of July 1, 2018. (Tr. p. 655-25.) This adjustment also reflects changes in related payroll taxes. (Id.)

The ORS made two recommendations with respect to this adjustment, one controverted and one not controverted. The uncontested recommendation made by the ORS was to update the salary allocator for the Company's wages and salaries and related employee benefit costs to the same date as the O&M labor expense, July 1, 2018, to which the Company agreed. (Tr. p. 659-15; Tr. p. 1602-12, 1607-3.)

The contested component of this adjustment relates to compensation the Company pays to its employees, specifically a portion of employee compensation represented by incentive pay. The ORS recommends removal of $15,428,000-worth of employee compensation, consisting of 50% of STI ("Short-Term Incentive") compensation and LTI ("Long Term Incentive") compensation for all qualifying employees. For the reasons set forth herein, the Commission disagrees with this recommended disallowance. No party takes issue with the Company's overall compensation levels. Incentive compensation, particularly that of non-executive-level employees, is merely a portion of overall employee compensation expense and a prudently incurred cost of service.

Company witness Metzler, a human resource professional, explained the Company's overall compensation philosophy is to target total compensation of base pay and incentives at the median of the market when compared to peer companies. (Tr. p. 1135.) Witness Metzler asserted that ORS erroneously assumes a divergence of interests between shareholders and customers that has not been demonstrated to exist. (Id. at 1162.) According to witness Metzler, employee compensation and incentives tied to metrics such as Earnings Per Share ("EPS") and Total Shareholder Return ("TSR") benefit customers because those metrics reflect how employees' contributions translate into overall financial performance. (Id. at 1137.) EPS, for example, is a measure of the Company's performance, and that performance is reflective of how certain goals – safety, individual performance, team performance, and customer satisfaction (all of which are components of incentive pay) – are met in a cost-effective way. (Id.)

As the incentive plans result in market-competitive compensation that results in solid operations, there is no evidence that they are not working or that they disadvantage customers. No party has alleged that the "rank and file" employees are overpaid, and how the Company decided to compensate its employees is a managerial decision, which is the sole responsibility of the Company. How to pay employees is a managerial decision, and as long as the costs and results are reasonable this Commission has no basis to reject the compensation at issue. As such, there is no factual or evidentiary basis for the disallowance recommendation made by ORS.

For all of the foregoing reasons, the Commission rejects ORS's proposed ($15,428,000) employee compensation adjustment.

J. Accounting Adjustment #25

The Company proposes in its Application Adjustment #25 to amortize rate case expenses of approximately $3,852,000 over five (5) years or $770,000 annually and earn a return on its rate case costs. The total amount of rate case expenses proposed by the Company includes projected expenses of approximately $2,000,000 through May 2019. Of the remaining actual $1,851,000 in rate case expenses, ORS contends the Company was unable to provide sufficient documentation in support of $512,313. ORS recommends this Commission allow the Company to amortize a total of approximately $1,339,000 in rate case expenses over a five (5) year period, resulting in an annual amortization expense of $268,000 as recommended in Hearing Exhibit 44, GS-2. ORS recommends this Commission not allow the Company to recover $512,313 in rate case expenses due to lack of supporting documentation, or $2,000,000 for estimated expenses as they are not known and measurable. The ORS further recommends that the Commission disallow the Company's request to earn a return on its rate case costs both during the deferral period and during the amortization period because the costs are not capital in nature. (Tr. p. 1602-13.)

On December 12, 2018, ORS sent an Audit Request to the Company requesting actual rate case expenses for this docket as they became available and requesting that the Company include "a summary listing of expenses, copies of all invoices and proof of payment." DEC responded with Excel files related to rate case expenses which did not contain enough detail to allow ORS to evaluate their propriety for recovery. In Docket No. 2006-92-WS, this Commission held that it did not have enough evidence to be able to evaluate the reasonableness of attorney's fees, specifically, and rate case expenses in general. *In re Carolina Water Service, Inc.*, 2007 WL 4944726 (S.C.P.S.C.). This Commission held that the complete lack of evidence on rate case expenses, other than the provision of the numbers themselves, severely limited the Commission's ability to make an independent determination as to the justifiable expenses. *Id*. Similar to *In re Carolina Water Service, Inc.*, without proper evidence here the Commission cannot properly evaluate the expenses claimed; therefore this Commission should disallow the recovery of $512,313 in unsupported rate case expenses. Also, ORS recommends this Commission disallow the inclusion of unamortized rate case expenses in rate base. Including unamortized rate case expenses in rate base would allow the Company to earn a return on operating expenses.

After reviewing all the evidence, the Commission concludes that the Company has not borne its burden of proof as to the expenses disputed in Adjustment #25, and therefore, it adopts the adjustments requested by ORS and disallows the inclusion of unamortized rate case expenses in rate base.

K. Accounting Adjustment #28

In its Application, DEC requests approval of a fee-free payment program for credit, debit and ACH payment methods used by the Company’s residential customers to pay their electric bills. (Application at 19.) Currently, customers are required to pay a $1.50 convenience fee, collected by a third-party vendor, for payments made by a credit card. To offer this program, the Company proposes to pay these costs on behalf of its residential customers and recover these costs as part of its cost of service. The Company proposes to adjust its O&M expense by approximately $3 million to adjust for credit card fee expenses. (Tr. p. 655-26.) This figure includes approximately $645,000 in projected future increased expenses resulting from more customers using credit cards to pay their bills. While ORS does not oppose recovery by DEC of the actual cost incurred in accepting credit cards without surcharging customers, it would disallow the portion of the requested adjustment attributable to growth projections. (Tr. pp. 1602-14.)

The Commission notes that in addition to benefitting the customers, the Company's acceptance of credit cards without a surcharge may also benefit the utility, since it may result in lower collection and administrative costs. Furthermore, the projected expenses resulting from increased use of credit cards is not known and measurable. Accordingly, the Commission disallows ($645,000) from this adjustment and allows a net recovery of $2,517,000 for credit card processing expenses.

L. Accounting Adjustment #29

In Adjustment #29, the Company has made an adjustment to remove 50 percent of the compensation of the four Duke Energy executives with the highest level of compensation allocated to DEC in the test period. (Tr. p. 655-27.) This adjustment amounts to a reduction in O&M expense by ($948,000) and income taxes by ($237,000). (Hearing Ex. 10 (Smith Rebuttal Ex. 1, p. 3.). ORS does not oppose DEC's proposed reduction. However, the Commission finds, after having heard testimony involving myriad specific complaints at the public night hearings that the total compensation of Duke Energy

CEO Lynn Good is excessive and should not be borne by the ratepayers, that an additional 25 percent of Ms. Good's compensation should be disallowed because during test year 2017, Ms. Good's compensation represented the highest of any IOU's CEO in the United States, totaling $21.4 million. The portion of Ms. Good's compensation which is allocable to DEC South Carolina is approximately $547,000. (Tr. p. 2001) Therefore, the Commission would remove an additional ($137,000) to account for the 25 percent of Ms. Good's allocated compensation in addition to the ($948,000) disallowance described above.

M. Accounting Adjustment #30

In its Application, the Company, requested recovery of its deferred costs and approval to include approximately $4.7 million annually for ongoing O&M expenses associated with replacing the Company's current CIS with Customer Connect. (Application at 10.) Specifically, the Company is seeking recovery of the deferred costs over a three-year period including a net of tax return on the unamortized balance of the regulatory asset through inclusion in rate base.

While no party contested the value or benefits to customers associated with the Customer Connect program, ORS witness Payne recommends an adjustment removing the projected two-year average O&M expense of $4,025,000 for the Customer Connect program from the Company's pro forma because the expenses are not known and measurable. (Tr. p. 1613-13.). Subsequently, following DEC's rebuttal testimony, ORS proposed an additional adjustment to O&M expenses for the Customer Connect project to reflect the actual incurred level of expenses in 2018 of $3,189,000. (Tr. 1607-8.) This results in an adjustment to O&M expense of $2,549,600 (as $640,000 of costs associated with Customer Connect were included in the test year expenses) and an amortization adjustment of $1,063,000. ORS, also, recommends that the deferral balance be removed from rate base as the balance consists entirely of deferred O&M expenses.

The Commission adopts ORS's recommendation to adjust other O&M related to Customer Connect to the actual amount experienced by the Company in 2018 and disallowing the inclusion of unamortized Customer Connect costs in rate base.

N. <u>Accounting Adjustment #35</u>

In Order No. 2018-751 in Docket No. 2018-206-E, the Commission approved the Company's request to defer in a regulatory asset account costs incurred in connection with grid reliability, resiliency, and modernization work until the time the costs are reflected in new rates from this proceeding. The Company has placed in service investments of approximately $44 million on a South Carolina retail basis. (Id. at 655-29 - 655-30.) The Company is seeking recovery of the deferred costs over a two-year period, including a net of tax return on the unamortized balance of the regulatory asset through inclusion in rate base for a revenue requirement impact of approximately $3 million for this adjustment. (Hearing Ex. 10, Smith Rebuttal Exhibit 1, p. 3.)

ORS recommends the deferred cost of capital portion of the deferral balance be included in rate base but not the deferred depreciation, O&M, and property tax expense portion of the deferral balance consistent with its overall recommendation for deferral accounting treatment in this case. (Tr. p. 1613-14.) The ORS also recommends recovery over a five-year amortization period. Upon review of the evidence presented, the Commission finds that the ORS recommendation is just and reasonable.

O. Accounting Adjustment #36

ORS proposed to eliminate certain expenses it deemed non-allowable found during ORS' audit of the Company books and records. Specifically, these costs were included in ORS witness Smith's proposed adjustment #36 and include sponsorships, lobbying expenses, advertising, and other miscellaneous expenses such as coffee for employees, expenses related to the Lineman's Rodeo, employee recognition awards such as service awards, spot awards, and safety awards, as well as 50 percent of dues paid to state and local chambers of commerce, 100% of social and athletic club membership dues, costs that are not 100% related to South Carolina, timing differences due to accrual accounting, and litigation expenses. (Tr. p. 1607-11.) ORS proposed to adjust O&M expenses by ($2,399,000) and income taxes by $599,000. (Id. at 1602-16.) ORS considers these items non-allowable and not necessary to provide electric service to ratepayers. (Id.) Subsequent to filing the application, the Company proposed an adjustment to other O&M expense of ($227,000) and income taxes of ($57,000) to remove lobbying costs and image building advertising. (Tr. p. 1607-9.) In the supplemental testimony of ORS witness Smith, the ORS updated its adjustment to also include ($575,000) related to coal ash litigation expenses and income taxes by $143,000 and argued that those costs were inappropriate because customers should not bear the burden of legal costs related to the Company's failure to operate its coal ash basins in accordance with state and local laws. (Id. at 1604-2.)

On balance, the Commission finds it just and reasonable to accept the Company's adjustment of O&M expenses by ($227,000) as well as ($575,000) related to coal ash litigation, as recommended by ORS. According to the Company, these legal expenses supposedly relate to the ongoing insurance recovery litigation and the defense of state enforcement actions. (Tr. p. 1604-2) In response to ORS discovery requests, DEC provided limited information regarding the nature of the legal expenses making it difficult for ORS to verify and determine whether the expenses were the result of management decisions or whether the expenses resulted in an outcome economically beneficial to DEC's customers. (Tr. p. 1607-5 – p. 1607-7)

The ongoing insurance litigation was initiated by DEC to enforce insurance policies and obtain indemnity from insurers for costs incurred associated with coal ash remediation. (Tr. p. 1247-26) DEC witness Wright testified DEC believes some of the coal ash remediation costs may be recoverable, but the insurance company has denied any payout to date. (Tr. p. 1310) DEC witness Kerin testified that the litigation is currently in the discovery phase and while there have been some settlement discussions there could be a trial sometime in 2020. The outcome has not been determined to date. (Tr. p. 1311 – p. 1312) This Commission has held that legal expenses incurred where the utility was found at fault and was unable to demonstrate an outcome that provided an economic benefit to its customers will not be included in rates paid by customers, but that they should be the burden of stockholders instead. With regard to these insurance litigation expenses, there is no specific information from DEC for the Commission to determine the benefit to customers or to approve recovery through rates. The litigation is pending, customers have not received any benefit, and it is unknown at this stage whether any benefit will occur. Should DEC lose in this litigation due to a finding that DEC is at fault and not entitled to insurance coverage, these litigation expenses should be assigned to stockholders as this Commission previously held in Docket No. 2017-292-WS, "Application of Carolina Water Service, Incorporated for Approval of an Increase in Its Rates for Water and Sewer Services."

Much like the litigation expenses related to the ongoing insurance litigation, DEC has not provided enough information detailing the nature of other coal ash related legal fees incurred during DEC's defense against state enforcement actions. It must be noted that the burden of proof is on DEC to justify the request to recover expenses. *Hilton Head Plantation Utilities Inc. v. Public Service Com'n of SC*, 312 S.C. 450, 441 S.E. 2d 323 (1994). When payments are made to a third party, a "mere showing of actual payment does not establish a prima facie case of reasonableness." *Id*. Because we find that DEC did not satisfy its burden of proof with regard to these legal expenses, we disallow them.

P. <u>Rate of Return and Cost of Capital</u>

Three (3) parties' witnesses addressed the issue of Return on Equity ("ROE" or "Cost of Equity"). Robert Hevert testified on behalf of DEC, David Parcell for ORS, and Gregory Tillman on behalf of Intervenor Wal-Mart.

DEC witness Hevert filed Direct and Rebuttal Testimonies providing his recommended ROE in this proceeding. Specifically, Mr. Hevert recommended a ROE for DEC of 10.75% within a range of 10.25% and 11.25%. In the Company's Application, DEC requested that the Commission approve a ROE of 10.5%. See, Application of Duke Energy Carolinas, Para. 24 (Nov. 8, 2018).

Mr. Hevert used a variety of methodologies in his analysis, including two forms of the Discounted Cash Flow ("DCF") model, the Capital Asset Pricing Model ("CAPM"), and the Bond Yield Plus Risk Premium approach. (Tr. p. 1787-5). Mr. Hevert testified that in formulating his recommended ROE, he also considered a number of other factors to include: (1) the risks associated with certain aspects of the Company's generation portfolio; (2) the Company's significant capital expenditure plan; (3) the risk associated with severe weather; (4) the risk associated with the Company's regulatory environment; and (5) the cost of issuing common stock. In his Rebuttal Testimony, Mr. Hevert updated many of his analyses with data current as of February 15, 2019.

Mr. Hevert acknowledged under cross examination that DEC is, in fact, a less risky company today than it was in 2014 when this Commission granted a 10.2% ROE. (Tr. p. 1843) Mr. Hevert's testimony, nevertheless, urges the Commission to conclude that DEC, although financially sound and one of the largest electric utility companies in the United States, should be viewed as a somewhat risky investment, thus justifying his high ROE recommendation. None of the DEC witnesses, however, claimed at any point in the presentation of the Company's case that DEC is on unstable financial footing or has any particular or unique risk not typically encountered by other electric utilities.

Both ORS witness Parcell and DEC witness Hevert presented detailed testimony regarding the methodologies and models each used to reach their recommended appropriate rate of return and ROE. However, ORS urges the Commission to discount Mr. Hevert's recommended ROE of 10.75%. Mr. Hevert's methodology produces a 10.75% ROE recommendation that is far out of line with what is being awarded around the country. (*See*, Hrg. Ex. 26, DCP-2, Schedule 3.)

Walmart witness Tillman testified that the average ROE for the one hundred and eleven (111) reported electric utility rate case ROEs authorized by state regulatory commissions to investor-owned electric utilities from 2016 to date is 9.61%. (Tr. p. 1519-15 and See, Exhibit GWT-4.) Further, Tillman cited SNL Financial data that shows the average ROE for vertically-integrated utilities authorized from 2016 to present is 9.76%, and that annual average authorized ROEs are trending downward. (Tr. p. 1519-15 See, Hrg. Ex. 53 and 54.)

ORS witness Parcell testified that he has provided testimony as a ROE and Cost of Capital expert witness on several occasions before this Commission since the early 1980s. (Tr. p.1178-2) He further stated that he has testified in over 570 utility proceedings in approximately 50 regulatory agencies across the United States and Canada. (Tr. p. 1178-1 - p. 1178-2)

In calculating his recommended Cost of Capital and ROE, Mr. Parcell used the hypothetical capital structure of 47% long-term debt and 53% common equity, which DEC witness Sullivan described as the "optimal" capital structure for the Company. (Tr. p.1178-3) To determine the imbedded cost of debt rate, Mr. Parcell updated the Company's proposed cost of debt (i.e., 4.63% as of December 31, 2017) by considering the replacement of three long-term debts that were scheduled to expire in 2018 with four (4) new long-term debts issued in the same year. The resulting cost of long-term debt originally proposed by

Mr. Parcell was 4.44%. In his Rebuttal Testimony, DEC witness Sullivan stated the Company did not oppose ORS witness Parcell's updating the cost of debt but proposed using the actual cost of long-term debt as of December 31, 2018. This cost of debt (i.e., 4.53%) is the imbedded cost of debt rate used by Mr. Parcell in his final Cost of Capital analysis.

To determine a fair and reasonable rate of return, Mr. Parcell estimated an appropriate ROE for the Company. In both his Direct and Surrebuttal Testimonies, Mr. Parcell employed three (3) recognized methodologies to estimate DEC's Cost of Equity: the DCF, CAPM, and Comparable Earnings (CE) models. He applied each of these methodologies to two (2) proxy groups – his own and the one developed by DEC witness Hevert – to establish an ultimate range of 9.1% to 9.5%, with a 9.3% mid-point. (Tr. p.1178-4, l.2). Mr. Parcell established this range based on the results of his DCF (range of 9.0% to 9.2% with a 9.1% midpoint) and CE (range of 9.0% to 10.0% with a 9.5% midpoint) models. As a result of these analyses, Mr. Parcell recommended a Cost of Capital in the range of 6.95 to 7.17 %, with a mid-point of 7.06 %. (Tr. p. 1178-3).

In reaching his recommendation of a 9.3% ROE, Mr. Parcell in large part relied on the DCF model, which is an analysis of current market conditions. The DCF model relies on current stock prices in the marketplace and has traditionally been regarded by this Commission as the best indicator of the return investors require in the marketplace for investment-grade regulated utility companies. Mr. Parcell relied on the results of both his DCF and CE analyses to determine his ROE recommendation and did not include the results of his CAPM analysis as the resulting range (i.e., 6.3% to 6.6%) was too low to be reasonable. (Tr. p. 1178-4)

Throughout his Direct and Surrebuttal Testimonies, Mr. Parcell stated that Mr. Hevert's analyses show a consistent pattern of choosing data and methodologies that result in the highest Cost of Equity conclusions. In other words, the data used by Mr. Hevert is intentionally filtered to produce an inflated ROE recommendation to the benefit of the Company. Mr. Parcell further asserted that Mr. Hevert's use of several "factors" to create more risk for DEC are all factors that are already considered by the rating agencies. In short, Mr. Parcell believes that Mr. Hevert is essentially "double-counting" risk to, again, artificially inflate his ROE recommendation. (Tr. p. 1178-57 – p.1178-58)

As with Walmart witness Tillman's testimony, Mr. Parcell's ROE recommendation is further supported by authorized ROEs nationwide. Mr. Parcell provided evidence that, from 2017 to 2018, ROEs allowed by regulatory jurisdictions across the country for all electric utilities averaged 9.59% with a median ROE of 9.58%. See, Hrg. Ex. 26, DCP-2, Schedule 3. This national average is only 29 basis points higher than Mr. Parcell's recommendation, but 116 basis points lower than Mr. Hevert's recommended 10.75% ROE. Testimony and supporting materials submitted to the Commission in this proceeding confirms a decline in ROEs across the country in recent years, supports the strength of market conditions, and indicates anticipated upward trend in interest rates in the near term. Mr. Hevert's recommendation of a 10.75% ROE is an increase over the recommendation that he made to this Commission in Docket No. 2017-370-E just four months ago. It is abundantly clear that Mr. Hevert's ROE recommendation is extremely misaligned and biased in the Company's favor. These facts call into question the validity and credibility of his analyses.

While Mr. Parcell was criticized by Mr. Hevert for his application of the CAPM, as noted above, Mr. Parcell did not use his CAPM analysis in formulating his recommended ROE in this case. (Tr. p. 1787-57 - p. 1787-60) By only using the DCF and CE analysis to produce his recommended ROE, and excluding his CAPM analysis, Mr. Parcell evidenced his efforts to produce a fair and reasonable recommendation to the Commission. Conversely, DEC witness Hevert recommended that both of his DCF analyses be given little weight by the Commission, apparently in large part due to their yielding results which he believed to be too low. (*See*, Tr. p.1787-32, Table 5 and P. 1787-32, Table 2.) We find Mr. Parcell was impartial and unbiased by discounting his CAPM results, which he judged to be too low.Mr. Hevert chose to discount two (2) methodologies that he claimed to be too low, which results in his recommending an unreasonably high ROE. Ultimately, Mr. Parcell had a recommended range of 9.1% To 9.5%, with 9.3% as an appropriate midpoint.

The Company is, by law, entitled to a reasonable return on its allowable costs. *See*, *Federal Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 64 S.Ct. 281 (1944) and *Bluefield Water Works and Improvement Co. v. Public Service Comm'n*, 262 U.S. 679, 43 S.Ct. 675 (1923). However, it is not a reasonable or fair balancing of the interests of the Company and its customers to approve an inflated ROE that not only exceeds what has been found to be reasonable by other Commissions across the country over the past three (3) years, but would in fact be the highest ROE awarded to any electric utility in the United

States. (See, Hrg. Ex. 26, DCP-2, Schedule 3.) While a public utility is entitled to earn a fair return, it has no entitlement or constitutional right to earn profits comparable with highly profitable enterprises or speculative ventures. *Bluefield v. Pub. Serv. Comm'n*, 262 U.S. 679, 690.

The South Carolina Supreme Court has held that the Commission must determine a fair and reasonable rate of return and must document fully the evidence to justify the rate of return which they award. *Heater of Seabrook, Inc. v. Pub. Serv. Comm'n of S.C.*, 324 S.C. 56, 64, 478 S.E.2d 826, 830 (1996) citing *Nucor Steel v. S.C. Pub. Serv. Comm'n*, 312 S.C. 79, 439 S.E.2d 270 (1994). In fulfilling its obligation to balance the interests of the ratepayers with those of the utility, the Commission has determined that the most appropriate ROE in this case is 9.5%, representing a return within the final range recommended by witness Parcell and within nine basis points of the national average for all electric utilities.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. Based upon the Application, the testimony, and exhibits received into evidence at the hearing and the entire record of these proceedings, the Commission hereby adopts each and every finding of fact enumerated herein. The Commission's conclusions of law are fully stated above.

2. Any motions not expressly ruled upon herein are denied.

3. The Company shall file revised tariffs within 10 days of receipt of this Order, consistent with the Commission's Rules and Regulations. The tariffs should be electronically filed in a text searchable PDF format using the Commission's DMS System

(https://dms.psc.sc.gov). An additional copy should be sent via email to etariff@psc.sc.gov to be included in the Commission's ETariff System (http://etariff.psc.sc.gov.) Future revisions should be made using the ETariff System. The tariffs shall be consistent with the findings of this Order and agreements with the other parties to this case. The Company shall provide a reconciliation of each tariff rate change approved as a result of this order to each tariff rate revision filed in the ETariff System. Such reconciliation shall include an explanation of any differences and be submitted separately from the Company's ETariff System filing.

4. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

Comer H. Randall

Comer H. Randall, Chairman

Justin T. Williams, Vice Chairman

(SEAL)